IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.649 OF 2007
IN
INCOME TAX APPEAL LODGING NO.2804 OF 2006

The Commissioner of Income TDS. ..Appellant.
Vs.
M/s. SMS India Pvt. Ltd. ..Respondent.

Mr.A.D.Kango for the Appellant.

Mr.A.K.Jasani for the Respondent.

CORAM : F.I. REBELLO & R.S. MOHITE, JJ.
DATED : 3RD DECEMBER,2007.

PC :

1. This is a Notice of Motion for condoning delay of 247 days in filing the aforesaid main appeal. On perusal of the affidavit in support of the Notice of motion, it appears that ITAT order was received in the office of CIT on 29.12.2005. The CIT Judicial received the report on 17.3.2006 and the Chief CIT granted approval for filing appeal on 19.4.2006. The explanation given however, is in respect of matters which occurred in Nov.2005, which are completely irrelevant and indicate non application of mind. There is no proper explanation as to what happened after the Chief CIT granted approval on 19.4.2006. It is stated that the Officer read the Memo of Appeal on 14.3.2006 and filed the appeal on 22.12.2006. The period between 14.3.2006 and 22.12.2006 is not properly explained. The cause shown is not sufficient. Hence, Notice of motion is dismissed.

(R.S. MOHITE, J.) **(F.I. REBELLO, J.)**

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1. As the Notice of Motion for condonation of delay has been dismissed, appeal stands dismissed. Refund of court fee as per rules. Certified copy expedited.

(R.S. MOHITE, J.) **(F.I. REBELLO, J.)**